

### **REMARKS**

Claims 34-36 and 47-50 are pending in this application. Claims 34 and 47 are independent. Claims 1-33 and 37-46 have been canceled.

The Office Action rejects claims 1-33 under 35 U.S.C. 101 as claiming the same invention as that of claims 1-33 of prior U.S. Patent No. 6,468,471. Claims 1-33 have been canceled, thereby rendering the rejection moot.

### **Rejection Under 35 U.S.C. 103(e)**

The Office Action rejects claims 34-50 as being anticipated by Kotler et al. U.S. Patent No. 6,504,898 (“Kotler”).

The present invention provides a system and method of irradiating an article from two opposing sides with an amount of radiation between lower and upper limits. In order to ensure sufficient sterilization of the article, the cumulative radiation should be between the lower and upper limits at all positions in the article. When it is determined that the amount of radiation will exceed the upper limit, the intensity of the radiation directed to the article is reduced such that the upper limit is not exceeded.

Claim 34 recites a method of irradiating an article, including the step of “reducing the intensity of the radiation directed to the article, when it is determined that the amount of radiation will be above the second limit, so that the reduced amount of radiation directed to the article will be between the first limit and the second limit”. This step involves using a microprocessor to determine the intensity of the radiation to be applied to the article, and then

reducing the intensity of the radiation before it is applied to the article (if the amount of radiation is above the second limit).

Kotler teaches a product irradiator for optimizing dose uniformity in a product, wherein the product is rotated on a turntable during irradiation. The product is irradiated “for a period of time sufficient to achieve a minimum required radiation dose within the product”. (Col. 4, lines 8-10). However, Kotler fails to disclose the use of a maximum desirable radiation dose that represents a predetermined upper limit to the amount of allowable radiation. Moreover, Kotler does not provide for reducing the intensity of the radiation before it is applied to the product. Kotler thus does not teach the step of “reducing the intensity of the radiation directed to the article, when it is determined that the amount of radiation will be above the second limit, so that the reduced amount of radiation directed to the article will be between the first limit and the second limit” (Emphasis added). By contrast, Kotler is only concerned with increasing the intensity of the radiation to achieve a minimum required radiation dose within the product.

Claim 47 recites a system for irradiating an article, including: (1) a microprocessor for determining whether the intensity of the radiation will be between a first limit and a second limit; and (2) a member for reducing the intensity of the radiation to a value between the first limit and the second limit when the microprocessor determines that the intensity of the radiation of the article will be greater than the second limit. The microprocessor is employed to determine the intensity of the radiation before it is applied to the article. Then, if the amount of radiation is above the second limit, the member is used to reduce the intensity of the radiation.

As discussed hereinabove with respect to claim 34, Kotler provides a product irradiator for optimizing dose uniformity in a product, wherein the product is irradiated

“for a period of time sufficient to achieve a minimum required radiation dose within the product”. (Col. 4, lines 8-10). Kotler fails to disclose the use of a predetermined upper limit to the amount of allowable radiation applied to the product. Further, Kotler does not provide for reducing the intensity of the radiation before it is applied to the product. Kotler thus does not teach a member for reducing the intensity of the radiation to a value between the first limit and the second limit when a microprocessor determines that the intensity of the radiation of the article will be greater than the predetermined upper limit. To the contrary, Kotler is only concerned with increasing the intensity of the radiation to achieve a minimum required radiation dose within the product.

In view of the above, Applicants’ respectfully request withdrawal of the rejection under 35 U.S.C. 103(e).

Conclusion

It is believed this amendment now has placed the application in condition for consideration and allowance. If necessary, the Commissioner is hereby authorized in this and concurrent replies to charge payment (or credit any overpayment) to Deposit Account No. 50-0683 of Luce, Forward, Hamilton & Scripps.

Respectfully submitted,

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